TELE·MEDIA CORPORATION
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June 30, 1994

Via Federal Express

Federal Communications Commission
Office of the Secretary
1919 M Street, Room 222
Washington, DC 20554

RE: **Tele-Media Corporation Comments in Response to Further Notice of Proposed Rulemaking - Cost of Service**

Gentlemen and Ladies:

Enclosed please find an original and nine copies of Comments filed on behalf of Tele-Media Corporation in response to the Further Notice of Proposed Rulemaking - Cost of Service.

Should there be any questions, you may call me at 814-238-8314.

Sincerely yours,

Jonathan P. Young
Corporate Legal Affairs Counsel

Enc.

cc: Jon A. Allegretti
Allen C. Jacobson, Esq.
Steve E. Koval

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BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

In the matter of:	)	
	)	
Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket No. 93-215
	)	
Rate Regulation - Cost of Service	)	

COMMENTS

TELE-MEDIA CORPORATION

June 30, 1994

In its comments to the Commission in response to the first Notice of Proposed Rulemaking for cost of service ("COS") ("Initial Notice") Tele-Media Corporation of Delaware, on behalf of all its affiliated entities ("Tele-Media"), expressed a number of concerns with respect to some of the FCC proposals for elements of a cost of service showing. Of the issues raised by the Commission, the most significant to Tele-Media included the 11.25% rate of return applied to the entire cable industry, and the treatment of the tangible and intangible portions of the purchase price of acquired cable systems. These comments respond to the Further Notice of Proposed Rulemaking adopted February 22, 1994, released March 30, 1994 (the "Further Notice") and specifically address the cable industry-wide rate of return of 11.25%.[1]

RATE OF RETURN

In its interim rules on cost of service, the Commission established one rate of return of 11.25% to be used by the entire cable industry. The 11.25% rate of return was established by virtue of the application of one capital structure for the entire cable industry, one range of costs of debt for the entire cable industry and one range for the cost of equity through the use of

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[1]Tele-Media had been concerned by references in the cost of service order which related to the addition of a "productivity factor offset" to annual rate adjustments. Based on comments by Chairman Hundt during the NCTA Convention that the productivity offset is no longer being considered, Tele-Media will presume that the issue need not be addressed in these comments. Tele-Media will only add that it supports the Chairmen's position. In addition Tele-Media has concerns with the Commission's treatment of excess acquisition costs such. Tele-Media respectfully refers the Commission to its Comments filed in response to the Initial Notice.

one surrogate group for the entire cable industry.

Tele-Media appreciates the fact that the Commission is taking steps to simplify a difficult process for both the local franchising authority and cable operator and also appreciates the fact that in establishing the 11.25% rate of return the Commission used the higher end of each range of data in establishing the rate. Unfortunately 11.25%, the rate established by the Commission, still does not satisfy the capital requirements of small and mid-sized cable operators and severely limits the ability of these operators to raise capital to improve the financial condition of the operator and to finance capital improvements.

In its comments to the Commission's Initial Notice, Tele-Media explained that the financial markets treat different cable operators differently. The size of the operator and the size of the transaction are two significant factors considered by lenders (ie. banks and institutional investors) in making investments into cable. Tele-Media also explained some of the differences between raising debt and equity and between public and private markets. In the end, Tele-Media suggested that there needs to be a rate of return established for individual cable operators and that an industry-wide rate of return adopted by the Commission is simply not realistic.

Tele-Media has endeavored to raise capital for the refinancing of many of its cable systems and financing packages since the Commission's initial Notice. It has been an extraordinarily difficult task. While raising capital immediately prior to the

Cable Television Consumer Protection and Competition Act of 1992 (the "Cable Act") was difficult, rate regulation has added a significant burden. Each new pronouncement of change to the regulations and release of the rules, including the establishment of the 11.25% rate of return. has made the process more difficult and more tenuous. The refinancing of the Tele-Media Company of Western Connecticut ("TMCWC"), an affiliate of Tele-Media, is an example of a transaction which Tele-Media completed recently that was affected by the changes and uncertainties of the rate regulation process and most importantly illustrates the point of the inadequacy of the 11.25% rate of return.

On June 16, 1994, the refinancing of TMCWC finally closed[2]. TMCWC was refinanced for $86 Million, of which $52 Million was bank debt and $34 Million was an equity investment. The interest rate on the bank debt portion is 7.5% and the return for the equity is at least 22%[3]. The blended cost of capital for this transaction is at least 13.2%, exceeding the presumptive 11.25%. The 13.2% cost of capital is the result of an "arms length transaction between all parties." This transaction took a considerable amount of time to complete as raising money in the present market was, as mentioned above, extremely difficult. Until approximately a week before the closing of this transaction, TMCWC was still working on raising the equity for this transaction through the public markets.

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[2]TMCWC operates one cable system which provides service to approximately 43,000 cable subscribers in Connecticut.

[3]There were offers from other equity participants at returns which exceeded 30%.

The original agreement to proceed with the transaction described above, included bank debt of approximately $52 Million and equity of approximately $34 Million. The underwriter of the equity portion of the transaction committed to a firm underwriting of the stock (ie. should they be unable to sell the stock, it would be purchased by the underwriter). However, upon the announcement and subsequent release of the most recent rate rollback (in February of 1994) the underwriter withdrew its firm underwriting and agreed to do the underwriting on a best efforts basis (ie. the underwriter would use its "best efforts" to sell the stock without incurring the obligation to purchase it should he be unable). The effect of the change was significant uncertainty with respect to the ability to complete the refinancing. The transaction was eventually completed although not by the original underwriter. The cost of the transaction when finally closed was significantly higher than anticipated although TMCWC is still in a better financial position than had the refinancing not occurred.

CONCLUSION

TMCWC provides only one illustration of the insufficiency of the 11.25% rate of return established by the Commission. Clearly it does not reflect every cable operator. But it is a real life illustration of the fact that 11.25% does not cover the cost of capital for this transaction. It will certainly be necessary for TMCWC to seek special relief from this situation and it is the intention of the company to do so even though the Commission has created an extremely difficult standard for the cable operator to overcome to prove the necessity of a higher rate of return. Without the ability to prove the actual cost of capital many unnecessary and unanticipated consequences may result.

Respectfully Submitted,

Tele-Media Corporation

By: TELE-MEDIA CORPORATION
OF DELAWARE

BY: ______________________
Jonathan P. Young
Corporate Legal Affairs Counsel